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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/271,164	11/11/2005	Jorey Ramer	AOLI.246006	7569

130011 7590 11/29/2016

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EXAMINER
POUNCIL, DARNELL A

ART UNIT	PAPER NUMBER
3621	

NOTIFICATION DATE	DELIVERY MODE
11/29/2016	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOREY RAMER, ADAM SOROCA, and DENNIS DOUGHTY

Appeal 2014-004441
Application 11/271,164
Technology Center 3600

Before MURRIEL E. CRAWFORD, NINA L. MEDLOCK, and TARA L. HUTCHINGS, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner's final decision rejecting claims 1–6, which constitute all the claims pending in this application. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We REVERSE.

Claim 1 is illustrative and is reproduced below:

1. A system for targeted distribution of advertising content of a sponsor based on rendering capabilities of cellular phones within a cellular telephony infrastructure, the system comprising one or more computers having computer readable mediums having stored thereon instructions which, when executed by one or more processors of the one or more computers, causes the system to perform the steps of:

presenting data corresponding to a first type and a second type of cellular phone to a sponsor, wherein a rendering capability of the first type of cellular phone is different from a rendering capability of the second type of cellular phone, wherein the rendering capability comprises a model of the respective first type and second type of cellular phone;

receiving a first advertising content and a second advertising content from the sponsor, wherein the first advertising content requires the rendering capability of the first type of cellular phone to be rendered thereon and wherein the second advertising content requires the rendering capability of the second type of cellular phone to be rendered thereon, wherein the first advertising content is incompatible with the second type of cellular phone and the second advertising content is incompatible with the first type of cellular phone;

receiving an advertising request associated with the first type of cellular phone;

determining that the relevance to the advertising request of the first advertising content and second advertising content is the same;

determining that the first type of cellular phone can render the first advertising content and cannot render the second advertising content; and

transmitting the first advertising content instead of the second advertising content to the first type of cellular phone.

REFERENCES

Natsuno et al. ("Natsuno")	US 2002/0165773 A1	Nov. 7, 2002
Hoerenz et al. ("Hoerenz")	US 2004/0267611 A1	Dec. 30, 2004
Papulov et al. ("Papulov")	US 2005/0227679 A1	Oct. 13, 2005

REJECTION ON APPEAL

Appellants appeal the following rejection:

Claims 1–6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoerenz, in view of Papulov, in view of Natsuno.

ISSUE

Did the Examiner err in rejecting the claims because the cited prior art does not disclose first advertising content is incompatible with a second type of cellular phone and the second advertising content is incompatible with the first type of cellular phone as required by claim 1?

ANALYSIS

The Appellants argue that the references fail to disclose two-way incompatibility. We agree.

The Examiner relies on paragraph 42 of Papulov for teaching that when an advertisement is requested, information about the capabilities of the device are sent to the advertiser provider and then an advertisement capable of being displayed is sent. The Examiner concludes that this teaching suggests that there would be a plurality of advertisements that a device would not be capable of displaying.

Although the Examiner may be correct that Papulov teaches one type of mobile device that receives an advertisement that is compatible with the

device, there is no teaching of a second type of mobile device that is incompatible with the advertisement that has been sent to the first mobile device.

The Examiner also relies on Natsuno at paragraph 62 for teaching that different mobile communication devices have different display capabilities and that a mobile communication device that is only capable of displaying black and white may not be able to display an advertisement that is in color (i.e., one-way incompatibility). However, there is nothing in Natsuno teaching that a mobile communication device that is capable of displaying color is not capable of displaying an advertisement that is in black and white (i.e., two-way compatibility). In this regard, Natsuno discloses a first advertising content (color content) that is incompatible with a first mobile communication device, but does not disclose that a second advertising content (black and white) is incompatible with a second mobile communication device.

In view of the foregoing, we will not sustain the rejection of the Examiner.

DECISION

We reverse the Examiner's decision to reject claims 1–6 under 35 U.S.C. § 103(a).

REVERSED